

1 **SENATE FLOOR VERSION**

2 April 2, 2019

3 ENGROSSED HOUSE
4 BILL NO. 2121

By: Ortega of the House

and

Howard of the Senate

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9 An Act relating to unclaimed property; amending 60
10 O.S. 2011, Sections 667, 668, 668.1, 674 and 678,
11 which relate to the Uniform Unclaimed Property Act;
12 prescribing procedures related to notification with
13 respect to abandoned property; providing for payment
14 of certain attorney fees; modifying procedures with
15 respect to purchase of services; excluding legal
16 services from certain solicitation process; creating
17 petty cash fund; prescribing procedures related to
18 use of petty cash fund; requiring Office of
19 Management and Enterprise Services to prescribe
20 forms, systems and procedures; modifying provisions
21 related to confidential information; authorizing
22 State Treasurer to maintain certain confidential
23 records; providing for codification; providing an
24 effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 2011, Section 667, is
amended to read as follows:

Section 667. A. Except as provided in subsections B and C of
this section, when the State Treasurer determines it to be
economically feasible, the Treasurer shall sell abandoned property

1 from safe deposit boxes to the highest bidder at public sale in
2 whatever city in the state affords in the judgment of the State
3 Treasurer the most favorable market for the property involved. The
4 State Treasurer may decline the highest bid and reoffer the property
5 for sale if in the judgment of the State Treasurer the bid is
6 insufficient. If in the judgment of the State Treasurer the
7 probable cost of sale exceeds the value of the property, it need not
8 be offered for sale. Any sale held under this section must be
9 preceded by a single publication of notice, at least three (3) weeks
10 in advance of sale in a legal newspaper of general circulation in
11 the county where the property is to be sold, the county of residence
12 of the holder and the county of the last-known address of the owner.
13 If no address is listed or if the address is outside this state, the
14 notice shall be published in an Oklahoma newspaper which the State
15 Treasurer believes is most likely to be seen by the owner of the
16 property or by heirs of the owner.

17 B. Securities listed on an established stock exchange must be
18 sold at prices prevailing at the time of sale on the exchange.
19 Other securities may be sold over the counter at prices prevailing
20 at the time of sale or by another method the State Treasurer
21 considers advisable. The liquidation of securities shall be exempt
22 from the procedures set forth in subsection A of this section.

23 C. Unless the State Treasurer considers it to be in the best
24 interest of the state to do otherwise, all securities, other than

1 those presumed abandoned under Section 655 of this title, delivered
2 to the State Treasurer must be held for at least one (1) year before
3 the State Treasurer may sell them.

4 D. The purchaser at any sale conducted by the State Treasurer
5 pursuant to the Uniform Unclaimed Property Act takes the property,
6 free of all claims of the owner or prior holder thereof and of all
7 persons claiming through or under them. The State Treasurer shall
8 execute all documents necessary to complete the transfer of
9 ownership.

10 SECTION 2. AMENDATORY 60 O.S. 2011, Section 668, is
11 amended to read as follows:

12 Section 668. A. There is hereby created in the State Treasury
13 the "Unclaimed Property Fund", the principal of which shall
14 constitute a trust fund for persons claiming any interest in any
15 property delivered to the state under the Uniform Unclaimed Property
16 Act and may be invested as hereinafter provided and shall not be
17 expended except as provided in the Uniform Unclaimed Property Act.
18 All funds received under the Uniform Unclaimed Property Act,
19 including the proceeds from the sale of abandoned property under
20 Section 667 of this title, shall forthwith be deposited by the State
21 Treasurer in the Unclaimed Property Fund, herein created, except
22 that the State Treasurer may before making any deposit to the fund
23 deduct:

24 1. All costs in connection with the sale of abandoned property;

1 2. All costs of mailing and publication in connection with any
2 abandoned property including the cost of custody services for
3 unclaimed securities;

4 3. Reasonable service charges not to exceed four percent (4%)
5 of the monies accruing to the state under the Uniform Unclaimed
6 Property Act, which may be used to defray the administrative costs,
7 including costs necessary to retain legal counsel to ensure
8 compliance with the Uniform Unclaimed Property Act, or to acquire
9 computer hardware and software to be used exclusively to help
10 administer the unclaimed property program; ~~and~~

11 4. An amount equal to fifteen percent (15%) of the funds
12 accruing to the state pursuant to a contract with the State
13 Treasurer providing information leading to the delivery of unclaimed
14 property held by a holder to the State Treasurer to be deposited in
15 the Unclaimed Property Clearinghouse Fund; and

16 5. An amount not to exceed twenty-five percent (25%) of the
17 value of the funds in an action to enforce the Uniform Unclaimed
18 Property Act, which is to be used solely to pay attorney fees to any
19 person who was authorized by the State Treasurer to bring the
20 action.

21 B. Before making a deposit to the Unclaimed Property Fund, the
22 State Treasurer shall record the name and last-known address of each
23 person appearing from the holders' reports to be entitled to the
24 abandoned property and of the name and last-known address of each

1 insured person or annuitant, and with respect to each policy or
2 contract listed in the report of a life insurance corporation, its
3 number, the name of the corporation, and the amount due. The record
4 shall be available for public inspection at all reasonable business
5 hours.

6 SECTION 3. AMENDATORY 60 O.S. 2011, Section 668.1, is
7 amended to read as follows:

8 Section 668.1 A. There is hereby created in the State Treasury
9 a revolving fund for the State Treasurer to be designated the
10 "Unclaimed Property Clearinghouse Fund". The fund shall be a
11 continuing fund, not subject to fiscal year limitations, and shall
12 consist of monies deposited to the fund pursuant to Section 668 of
13 this title. All monies accruing to the credit of the fund are
14 appropriated to the State Treasurer. The State Treasurer may budget
15 and expend monies from the fund for the purpose of making payment
16 for the mailing, publication and sale costs associated with
17 abandoned property, and to persons, firms, or corporations who are
18 regularly engaged in the business of notifying states about property
19 which may be subject to the provisions of unclaimed property
20 statutes of those states. The State Treasurer may enter into
21 contracts with these persons, firms or corporations performing these
22 services, which services may include the examination of any party
23 subject to examination under the Uniform Unclaimed Property Act.
24 The State Treasurer may delegate all necessary authority to act in

1 the State Treasurer's behalf to such persons, firms or corporations
2 to enforce the provisions of the Uniform Unclaimed Property Act.

3 B. The State Treasurer shall be authorized to expend monies
4 from the Unclaimed Property Clearinghouse Fund in payment of a
5 reasonable fee not to exceed fifteen percent (15%) of the delivered
6 funds to a person, firm, or corporation contracting with the State
7 Treasurer providing information leading to the delivery of unclaimed
8 property held by a holder to the State Treasurer. Such payment
9 shall not be made until the funds have been deposited with the State
10 Treasurer.

11 C. The State Treasurer is authorized to purchase services,
12 including legal services, in order to locate and effect the delivery
13 of property and related owner information to assist the State
14 Treasurer in the Treasurer's duties related to the administration of
15 the Uniform Unclaimed Property Act. The purchase of such services,
16 other than legal services, shall be chosen by a solicitation of
17 proposals on a competitive basis, but shall be exempt from the
18 provisions of The Oklahoma Central Purchasing Act.

19 SECTION 4. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 668.2 of Title 60, unless there
21 is created a duplication in numbering, reads as follows:

22 There is hereby created a petty cash fund for the State
23 Treasurer to be used exclusively for administrative costs of the
24 unclaimed property program. The amount of the petty cash fund shall

1 not exceed Five Hundred Dollars (\$500.00). The Office of Management
2 and Enterprise Services shall prescribe all forms, systems and
3 procedures for administering the petty cash fund.

4 SECTION 5. AMENDATORY 60 O.S. 2011, Section 674, is
5 amended to read as follows:

6 Section 674. A. A person, excluding another state, claiming an
7 interest in any property delivered to the State Treasurer may file a
8 claim on a form prescribed by the State Treasurer and verified by
9 the claimant. The date of filing of a claim shall be the date it is
10 received by the State Treasurer with all supporting documentation
11 from the claimant. Any information submitted by a claimant which is
12 required to be submitted to the State Treasurer to establish a claim
13 may be kept confidential by the State Treasurer if it contains
14 personal financial information of the claimant, ~~social security~~
15 personal identifying information such as the address, date of birth,
16 telephone number or email address of the claimant, Social Security
17 numbers, birth certificates or similar documents related to the
18 parentage of an individual, or any other document which is
19 confidential by statute if in the custody of another public agency
20 or person.

21 B. The State Treasurer shall consider each claim within ninety
22 (90) days after it is filed and give written notice to the claimant
23 if the claim is denied in whole or in part. The notice may be given
24 by mailing it to the last address, if any, stated in the claim as

1 the address to which notices are to be sent. If no address for
2 notices is stated in the claim, the notice may be mailed to the last
3 address, if any, of the claimant as stated in the claim. No notice
4 of denial need be given if the claim fails to state either the
5 address to which notices are to be sent or the address of the
6 claimant.

7 C. If a claim is allowed, the State Treasurer shall pay over or
8 deliver to the claimant the property or the amount the State
9 Treasurer actually received or the net proceeds if it has been sold
10 by the State Treasurer, together with any additional amount required
11 by Section 665 of this title, but no person shall have any claim
12 under this section against the state, the holder, any transfer
13 agent, registrar or other person acting for or on behalf of the
14 state or a holder, for any appreciation or depreciation in the value
15 of the property or any earnings that might otherwise accrue, after
16 sale of the property by the State Treasurer.

17 SECTION 6. AMENDATORY 60 O.S. 2011, Section 678, is
18 amended to read as follows:

19 Section 678. A. The State Treasurer may require any person who
20 has not filed a report to file a verified report stating whether or
21 not the person is holding any unclaimed property reportable or
22 deliverable under the Uniform Unclaimed Property Act. If the State
23 Treasurer has reason to believe that any person has failed to report
24 property in accordance with the Uniform Unclaimed Property Act, the

1 State Treasurer may make a demand by certified mail, return receipt
2 requested, that such report be made and filed with the State
3 Treasurer. The report of abandoned property or any other report
4 required shall be made and filed with the State Treasurer within
5 sixty (60) days after receipt of the demand.

6 B. The State Treasurer may at reasonable times and upon
7 reasonable notice examine the records of any person if the State
8 Treasurer has reason to believe that such person has failed to
9 report property that should have been reported pursuant to the
10 Uniform Unclaimed Property Act. The State Treasurer may contract
11 with any other person or entity to conduct the examination on behalf
12 of the State Treasurer. The State Treasurer may keep confidential
13 documents and working papers obtained or compiled by the State
14 Treasurer or the State Treasurer's agents or designated
15 representatives in the course of conducting an examination, except
16 for information required to be subject to public inspection pursuant
17 to the Uniform Unclaimed Property Act.

18 C. If a person is treated under Section 656 of this title as
19 the holder of the property only insofar as the interest of the
20 business association in the property is concerned, the State
21 Treasurer, pursuant to subsection B of this section, may examine the
22 records of the person if the State Treasurer has given the notice
23 required by subsection B of this section to both the person and the
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1 business association at least ninety (90) days before the
2 examination.

3 D. If a holder fails after September 1, 1991, to maintain the
4 records required by Section 679.1 of this title and the records of
5 the holder available for the periods subject to the Uniform
6 Unclaimed Property Act are insufficient to permit the preparation of
7 a report, the State Treasurer may require the holder to report and
8 pay the amount that is reasonably estimated from any available
9 records.

10 SECTION 7. This act shall become effective July 1, 2019.

11 SECTION 8. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
16 April 2, 2019 - DO PASS

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